

SEP 19 2003

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON
U.S. COURT OF APPEALS**

TERRY L. PILSON,

Plaintiff - Appellant,

v.

JO ANNE B. BARNHART, Commissioner of
the Social Security Administration,

Defendant - Appellee.

No. 02-35463

D.C. No. CV-01-06166-KI

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Garr M. King, District Judge, Presiding

Submitted September 10, 2003**
Portland, Oregon

Before: ALDISERT, *** GRABER, and GOULD, Circuit Judges.

*/ This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

*** The Honorable Ruggero J. Aldisert, Senior Judge, United States Court of Appeals for the Third Circuit, sitting by designation.

Terry L. Pilson appeals the district court's judgment affirming the denial of disability insurance benefits and supplemental social security income benefits.

We reverse and remand for further proceedings.

1. In the vocational hypothetical, the administrative law judge ("ALJ") properly accounted for Pilson's lifting limitation and his "deficiencies of concentration, persistence or pace." However, the ALJ omitted without explanation a moderate limitation in Pilson's ability to "maintain socially appropriate behavior and to adhere to basic standards of neatness and cleanliness."

"If a vocational expert's hypothetical does not reflect all the claimant's limitations, then the expert's testimony has no evidentiary value to support a finding that the claimant can perform jobs in the national economy." Matthews v. Shalala, 10 F.3d 678, 680 (9th Cir. 1993) (internal quotation marks omitted).

When impairments or limitations are omitted from a hypothetical, a remand for reconsideration after further development of the record is appropriate. See Andrews v. Shalala, 53 F.3d 1035, 1043-44 (9th Cir. 1995).

2. The ALJ properly accounted for Pilson's subjective complaints that he could not "hold down a steady job," "do things for himself," or sit or stand for long periods without painful ankle swelling. In the residual functional capacity determination and vocational hypothetical, the ALJ included a sit/stand alternation

requirement and other limitations that adequately reflected the depression, asthma, and knee pain that were the underlying causes of these complaints.

3. The parties agree that two of the three jobs identified by the vocational expert were inconsistent with Pilson's limitation to perform sedentary work. However, because we reverse and remand for further testimony based on a vocational hypothetical that includes Pilson's moderate limitation in maintaining socially appropriate behavior and adhering to basic standards of neatness and cleanliness, we do not reach Pilson's claim that the jobs identified in response to the original hypothetical do not constitute work existing in significant numbers in the national economy.

REVERSED AND REMANDED for further proceedings consistent with this disposition.